

Policy 6.4.3 Art in Private Development

POLICY PURPOSE:

The purpose of this policy is to ensure the inclusion of art on private property by establishing uniform guidelines and procedures.

POLICY STATEMENT

This policy provides uniform guidelines for art in private development within the Sunnyvale community. In particular:

1. A 1% flat fee of construction costs for all projects subject to the Art in Private Development requirement,
2. A maximum, “not to exceed” threshold for art in eligible development projects, and
3. An in-lieu fee option for projects that lack an appropriate location for public art.
4. Developments subject to the Art in Private Development requirement shall be required to provide publicly accessible artwork in an amount equal to 1% of the valuation of an eligible development project including building and tenant improvements. The following types of costs are typically excluded from the project valuation; land acquisition, site improvements, such as grading and costs associated with off-site improvement costs beyond the property line, such as moving power lines, adding a traffic light or right turn lane, or relocating a historical landmark to another location, will be excluded.

ELIGIBLE PROJECTS

All nonresidential development projects (including hotel and motel developments) involving construction of new buildings or the expansion of existing buildings on property subject to Chapter 19.52 of the Sunnyvale Municipal Code.

DEFINITIONS

1. Building Permit Valuation: The City’s building permit valuation formula as referenced in Title 16 of the Sunnyvale Municipal Code will be used as the basis for calculating the required expenditure for public art. Valuation is based on the building standards published by the International Conference of Building Officials (ICBO), as adopted by the State of California.
2. In-Lieu Fee Option: Developers of projects that lack an appropriate location for public art may apply to the Director of Community Development for a waiver that would allow them to contribute an in-lieu fee of 1% of the construction valuation of a development, including building and tenant improvements, and excluding the cost of land and site improvements. Such projects may include, but are not limited to the following conditions:
 - A. Properties that have an obstructed view corridor from the public right-of-way due to existing landscaping, utility poles or existing buildings on adjacent property.

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- B. Properties that do not have an artwork location near the main entrance or street, either due to lack of space, existing trees and landscaping, required public easements, or existing utility pipes and electrical boxes.
 - C. Properties that lack a publicly visible location for art due to security restrictions.
 - D. Properties that do not have adequate space to incorporate public art.
 - E. Developers using the in-lieu fee alternative will be assessed an additional quarter of one percent (.25%) of the building permit valuation of a development project. These funds will be used to offset City costs for providing long-term maintenance for public art purchased using in-lieu fees and placed on public property or in public buildings.
3. Public Art Fund: In-lieu fees will be contributed to the Public Art Fund administered by the Department of Parks and Recreation. In-lieu fees from the Public Art Fund may be used to:
- A. Create community art projects.
 - B. Install public art on public property such as parks or the grounds of public facilities such as the Community Center and Civic Center.
 - C. Install public art in the interior of public buildings that are deemed to be areas of concentrated public activity such as the lobbies and public areas of the Library, City Hall buildings and Community Center buildings.
 - D. Install public art at City gateways and focal points or other high profile locations identified in the Master Plan for Public Art.
4. Repair and Maintenance Fund: Developers who choose to exercise the in-lieu fee alternative and contribute to the Public Art Fund will be assessed an additional amount equal to one quarter of one percent (.25%) of the building permit valuation of the development project. These funds will be set aside in a separate account to provide for the long-term maintenance and repair of public art purchased using in-lieu fees and placed on public property and in public buildings.
5. Artwork Valuation: When calculating the value of an artwork to be placed on a private development site, eligible costs will include:
- A. The purchase price of the artwork
 - B. Art consultant fees
 - C. Transportation of the artwork to the site
 - D. Installation of the artwork
 - E. Pedestals or display costs
 - F. Lighting for the artwork and utility fees associated with installation and/or operation of the artwork
 - G. Identification plaque
- Ineligible costs include:
- A. Land acquisition
 - B. Site preparation

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- C. Travel costs for the artist
- D. Architect fees
- E. Utility fees associated with the installation or operation of the artwork
- F. Fees associated with dedication ceremonies, publicity, or educational components
- G. Maintenance fees and repairs

PROCESS

1. Verification of the eligible costs associated with the acquisition and installation of artwork required under the terms of the Sunnyvale Municipal Code must be submitted to the Director of Parks and Recreation or his/her designee.
2. Process for Artwork Valued at Less than One Percent (1%): Developers will not be prohibited from the acquisition and installation of artwork valued at less than the one percent (1%) required expenditure provided the proposed artwork meets all remaining criteria of the Art Private Development Ordinance and the applicant contributes to the Public Art Fund the difference between one percent (1%) of the construction valuation of the project as described in Sub-section A and the cost of the artwork as calculated in Sub-section F.

(Adopted RTC 02-136 (5/7/02))

Lead Department: Department of Parks and Recreation

